

Testimony of
F. Patrick Crowley
On
SB 451

The repeal of The Montana Megalandfill Siting Act

For the record my name is Patrick Crowley. I am the principal of a small geologic consulting firm here in Helena. For 16 years I worked at the Solid Waste Program of the Department of Environmental Quality. For years I was the Chief Landfill Inspector and Solid Waste rule writer. I have wanted this legislation repealed for most of my career dealing with solid waste. Nearly two decades. I testify here today on my own account, *in favor of the repeal.* ~~for the good of Montana.~~

The Montana Megalandfill Siting Act was a piece of protectionist legislation passed in 1991 designed to prevent the railroad and the coal mining companies from backhauling empty coal cars filled with big city refuse to Montana. It has never been used. *To the best of my knowledge* Neither the DEQ nor the BER have promulgated rules to implement the Act.

In the late 1980's the specter of the backhaul was real because of the cost of landfill operations near the larger cities. The laws and rules of the more populous States often required expensive liners and other environmental protections. The way garbage was handled Montana was much cheaper. The nearest big hole, be it an old gravel pit, or a

coulee that was too steep to plant, was often the disposal site of choice. The large hole at Colstrip seemed ideal.

Everyone knows the garbage from the big cities is fundamentally much worse than local garbage, so the Act was crafted to place as many obstructions in the way of such a venture as possible. Strangely, it did not include any specific design requirements for environmental protection. But lots of studies and certifications were required.

The Act was passed, never figuring that Montana might internally create large landfills. The concern was on imported waste. Then on October 9, 1991, the world of garbage in the United States changed. The EPA promulgated Subtitle D and set minimum National standards for municipal waste. The cheap hole in Montana suddenly became a lined facility every bit as expensive as one 50 miles outside of Minneapolis or Chicago. The evil big city trash was not coming to Montana. Subtitle D, and the Montana parallel rules, were more protective of the environment than the 1991 act.

Subtitle D recognized that larger regional landfills are actually good, contrary to 75-10-902(3), MCA. They are more protective of the environment than the little old poorly run facilities that could not afford

groundwater monitoring, liners, or financial assurance for closure and post closure care. Regionalization is preferred by the EPA to better protect the environment. Between 1991 and 1994 over 100 landfills in Montana closed and the garbage went to larger facilities. These larger facilities operate at less cost per ton because of their size. Sort of like the ads you hear about how far a train can go on a gallon of fuel. This landfill consolidation occurred in almost all of the States that did not already have more stringent rules.

The basic rule in garbage is that it seeks the lowest cost option. If the local landfill costs \$40 per ton and the Regional landfill is \$25 per ton and 5 dollars for the haul, the local landfill closes. Of course there are some people who have not had Economics 101, but that is the general rule. I met a lot of those folks in the early '90's. And the local dump closed anyway.

Montanans generate about one million tons of garbage per year. We have 28 landfills. The five largest landfills handle 75% of the refuse in the State. These facilities provide the least expensive cost per ton in Montana. Because of their size, they are the best run facilities in the State. They can afford to do environmental protection because of the number of tons that come in the front gate.

The original legislation had to be amended because a hail storm in Billings put their landfill in violation of the Act, but I will let Barb Butler describe their experiences. Remediation activities can generate large amounts of material in a short amount of time, potentially triggering the Act. Others will speak to those issues. But the question remains, should the re-shingling and the remediation projects be delayed for two years so the proper certifications can be filed? All of the big five landfills are in jeopardy of the current law. They are one hailstorm away from violation.

In short, the proposed legislation should be passed. It is in the best interest of the citizens of Montana and will continue to help keep waste disposal costs reasonable in Montana.